

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No.D-1728/2023

Date of hearing	Order with signature of Judge
-----------------	-------------------------------

- 1.For orders on CMA No. 7442/2023
- 2.For orders on office objection
- 3.For orders on CMA No. 7443/2023
- 4.For hearing of main case.

29.11.2023.

Mr. Iftikkhar Ali Arain, Advocate for petitioner.

1. Granted.
2. Deferred.
3. Granted subject to all just exceptions.

4. This petition seeks demarcation of the land of a graveyard with it being said that such exercise has already been ordered in C.P No. D-92/2020 and it being prayed that the official respondents be directed to comply that order This petition is predicated on the assertion that the land of the graveyard is being encroached upon, and a perusal of the Order dated 13.01.2023 made in aforementioned petition reflects that it too was similarly predicated. On query posed to the learned counsel as to how a subsequent petition would lie to seek such compliance, he invited attention to an interlocutory Order made in that earlier petition on 28.9.2021, reflecting that several applications under Order 1 Rule 10 CPC filed by the persons who were seeking similar relief, akin to that sought in the petition were dismissed with the observation that they could file independent petitions on the subject. However, on query posed, he conceded that the present petitioner was not one of those persons who had moved such application at the time, and could also not advance any explanation as to why the petitioner had approached this Court after more than two years had lapsed since the date of that order. Furthermore, when called upon to explain how the Petitioner was even aggrieved, he replied that the land of the petitioner was adjacent to the graveyard and that persons seeking to encroach upon the graveyard were trespassing upon his land, hence the demarcation was necessary from his standpoint. However, he conceded that the land of the petitioner had already been demarcated. As such, we see no force in the contention. Furthermore, if the matter is one of

encroachment over public land, it is to be dealt with under the Sindh Public Property (Removal of Encroachment) Act, 2010 and the petitioner may approach the competent authority in that regard. Indeed, the very order dated 28.9.2021 made in earlier petition itself suggest this to be the appropriate course of action. As such, the petition is found to be misconceived and stands dismissed *in limine*.

J U D G E

J U D G E

Sajjad/PA